

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA §
§
vs. § Case No. 4:05cr41
§ (Judge Schell)
ROY LEE MCCLUSKEY (2) §

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on August 16, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by James Peacock.

On October 20, 2005, Defendant was sentenced by the Honorable Paul Brown to sixty (60) months' custody followed by four (4) years of supervised release for the offense of Conspiracy with Intent to Manufacture, Distribute, Possess or Dispense 50 Grams or More of a Mixture Containing Detectable Amount of Methamphetamine. On March 23, 2010, Defendant completed his period of imprisonment and began service of his supervised term.

On August 2, 2012, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated various mandatory, standard, and special conditions. Violation allegations two, three, and four were dismissed by the Government. The petition also alleged violation of the following mandatory condition: the defendant shall refrain from any unlawful use of a controlled substance.

The petition alleges that Defendant committed the following acts with regard to the remaining violation: (1) On July 5, 12, 20, and 23, 2012, Defendant submitted urine specimens that

tested positive for methamphetamine. Lab results confirmed said use.

Prior to the Government putting on its case, Defendant entered a plea of true to the remaining violation.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of ten (10) months with no supervised release to follow. It is also recommended that Defendant be housed at FCI Bastrop.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 19th day of August, 2012.



AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE